

REMARKS

Applicant has carefully studied the Office Action of 30 May 2003 and offers the following remarks to accompany the above amendments.

§ 112

Claims 1-69 were rejected under 35 U.S.C. § 112 as being indefinite. Specifically, the Patent Office identified several elements for which the Patent Office opined that there was insufficient antecedent basis.

Applicant selectively traverses some of the specific issues on the grounds that the claims do have antecedent basis for the elements in question.

Claim 8 recites "The set processor of claim 7 wherein the set contains a plurality of levels of audio data qualifiers and the selector specifies a path through the levels that leads to the member corresponding to the audio segment to be played." As indicated by the bold language, "the levels" that appears later in the claim has proper antecedent basis.

Claim 9 recites "The set processor of claim 7 wherein the set contains a plurality of levels of audio data qualifiers and the selector specifies a partial path through the levels and selecting the audio segment to be played includes traversing the levels in the order specified by the selector and supplying default paths through levels not specified by the selector." As indicated by the bold language, "the levels" that appear later in the claim have proper antecedent basis. The audio data segment language has been amended.

Claims 41, 42, 57, and 58 have language similar to that of claims 8 and 9 and have the required antecedent basis as described for claims 8 and 9.

Claim 57 depends from claim 55 which recites "a member of the set." Thus, claim 57's use of the term "the member" has antecedent basis.

With respect to the remaining issues, Applicant has amended the claims such that antecedent basis is provided, or canceled the claims, thereby mooting the rejection.

Summary of the present invention

The present invention is designed to facilitate the propagation of network-related announcements to various locations in a telephone network. Specifically, the present invention is designed to allow the standardization of network-related announcements in a central audio

database. To do this, various audio segments are assembled in the audio database. Each audio segment forms at least a part of a network-related announcement. Each audio segment further has a unique audio identifier. Audio segments are assembled into sequences and played over the telephonic network to convey network-related announcements to telephone users or other recipients. Each sequence may have a sequence identifier. The present invention provides variously claimed ways of receiving a request for playing a sequence, collecting the audio segments that make up the sequence, and playing the sequence. Allowances are made for variable audio segments (such as language) that may vary from announcement to announcement.

§ 103

Claims 1, 5-9, 12, 13, 16-20, 23-25, 28, 29, 32, 36, 39, 40-42, 46, 52, 55, and 57-69 were rejected under 35 U.S.C. § 103 as being unpatentable over Medan et al. in view of Pocock.

Claims 14, 15, and 43-45 were rejected under 35 U.S.C. § 103 as being unpatentable over Medan et al. in view of Pocock and further in view of Cookson et al.

Claims 2-4, 10, 11, 21, 22, 26, 27, 30, 31, 37, 38, 47, 48, 53, 54, and 56 were rejected under 35 U.S.C. § 103 as being unpatentable over Medan et al. in view of Pocock and further in view of Bernard et al.

Claims 20-35 and 46-51 have been canceled, thereby mooted the rejection thereof. Applicant respectfully traverses the rejection of claims 1-19, 36-45, and 52-69.

Standards

For the Patent Office to establish *prima facie* obviousness, the Patent Office must show where each and every claim element is located in the combination of references. MPEP § 2143.03. If the Patent Office cannot show where each and every claim element is located, the Patent Office has not established obviousness, and the claims are non-obvious. For a reference to be considered in formulating an obviousness rejection, the reference must be analogous. A reference is analogous if it is in the same field of endeavor or logically commends itself to an inventor facing the problem that faced Applicant. MPEP § 2141.01(a). In this case, the combination of references is improper because Pocock is non-analogous art and, even if Pocock is analogous art, the combination of the references does not teach the claimed network-related announcements.

Discussion of the references

Pocock is directed to allowing people to purchase songs that they have recently heard on the radio. Specifically, Pocock allows a radio listener to call a central number, indicate the radio station to which they were listening and a time. The system then plays a snippet of the song and allows the listener to purchase that song over the phone. A medium containing the song is then delivered to the listener. The system may prompt the listener with various messages to elicit information from the user. However, the prompts used to elicit the information are not network-related announcements.

Medan et al. is directed to a system that connects to a telephonic network and records utterances from callers. The utterances from the callers are then used to populate fields in a query string. The prompts which are used to solicit the utterances are not network-related announcements.

Cookson et al. is directed to a system that selects one of a plurality of multiple audio tracks for use with a motion picture. The audio tracks are not network-related announcements, nor are they propagated across a telephonic network.

Bernard et al. is another automated purchasing system that allows purchasers to order products via a network without having to speak to a sales representative. While there are menu-style prompts, these prompts are not network-related announcements.

Pocock is non-analogous

The standard for whether a reference is analogous is set forth above. Applicant's field of endeavor is populating network-related announcements throughout a telephone network. In contrast, Pocock is directed to selling music. Thus, Pocock is not in the same field of endeavor as Applicant's invention. If the reference is not in the same field of endeavor, the reference must logically commend itself to the inventor. When an inventor is looking for a way to spread network-related announcements through a telephone network, the inventor is not going to look at a music sales reference for a solution. Thus, Pocock does not logically commend itself to an inventor faced with Applicant's problem. Since the reference fails both parts of the test for analogousness, the reference is non-analogous and cannot properly be considered prior art. Since all the rejections rely on Pocock, and Pocock is non-analogous, the rejections are improper.

No *prima facie* case of obviousness

As amended, the independent claims recite that the audio segments comprise at least a portion of a network-related announcement. Support for this amendment can be found at least at page 8, line 18 to page 9, line 6 of the specification. As explained above, none of the references individually teach that the announcements are network-related announcements or that the audio segments are used to make the network-related announcements. Thus, in combination, the references cannot teach or suggest that the prompts or audio segments that are elicited are network-related announcements. Since the combination of references does not teach or suggest a claim element, the claims are non-obvious over the rejections of record.

Specifically, claims 1, 7, 12, 36, 40, 52, 55, 59, 63, and 67 were rejected under Medan et al. in view of Pocock. As explained above, neither Medan et al. nor Pocock teach or suggest that the audio segments form network-related announcements. Since neither reference individually teaches or suggests this element, the combination does not teach this element.

Claim 43 was rejected under Medan et al. in view of Pocock and further in view of Cookson et al. As explained above, neither Medan et al. nor Pocock nor Cookson et al. teach or suggest that the audio segments form network-related announcements. Since none of the references individually teaches or suggests this element, the combination does not teach this element.


The remaining claims are rejected over one of these base combinations or the combination of Medan et al. in view of Pocock in view of Bernard et al. However, none of the references teaches or suggests the claim elements individually. Thus, in combination, the references cannot teach or suggest the claim elements, and the claims define over the rejection of record.

Applicant requests reconsideration of the rejection in light of the arguments presented herein. Specifically, the rejections of record do not teach or suggest that the audio segments are portions of network-related announcements, and thus, the claims are not obvious over the combinations of record. Applicant earnestly solicits claim allowance at the Examiner's earliest convenience.

Respectfully submitted,

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